S.B.Civil Second Appeal No.183/2007

Ratan Lal VS. Jagdishchandra & Ors.

Date of order : 28.11.2007.

HON'BLE MR. PRAKASH TATIA, J.

Mr. Ranjeet Joshi, for the appellant.

<><><>

Heard learned counsel for the petitioner.

The appellant is aggrieved against the concurrent finding of fact recorded by the two courts below in the judgment and decree passed by the trial court dated 24.1.2004 and the appellate judgment and decree dated 1.9.2006.

The plaintiff filed the suit for cancellation of sale deed dated 17th Nov., 1975 which was executed by the persons whose names are in the Patta obtained by them and who are father and uncle of the plaintiff. The suit has been filed by the plaintiff when he was minor and has been filed through natural guardian his mother – the wife of the seller also. The two courts below held that the Patta was obtained by these three sellers and, therefore, they were owner of the property and had right to sell the property.

Learned counsel for the appellant submitted that in the Patta (Ex.2) there is clear mention that Patta was issued because of the old possession and that old possession was from the time of ancestors of the

plaintiff's father and, therefore, the property, which was sold was ancestral property.

I do not find any force in the submissions of learned counsel for the appellant. The property was sold by the three persons jointly in favour of the defendant no.1 in the year 1975 and that sale has been challenged by filing the suit about in the year 1982 that too, by minors through their natural guardian – their mother who is wife of one of the vendor and they failed to prove that the property was ancestral property and, therefore, their right accrued in the property with their birth. The contention of the plaintiff that property came in the share of Pukhraj was partitioned also has not been proved and, therefore also, I do not find any illegality in the impugned judgments and decrees.

I do not find any substantial questions of law are involved in this appeal. Hence, the appeal of the appellant is dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-